

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MCR OIL TOOLS LLC,

Plaintiff,

VS.

SPEX OFFSHORE LTD.,

SPEX SERVICES LTD.,

SPEX OFFSHORE (UK) LTD.,

SPEX GROUP US LLC,

SPEX ENGINEERING (UK) LTD.,

SPEX GROUP HOLDINGS, LTD.,

SPEX CORPORATE HOLDINGS,

LTD., AND JAMIE OAG

Defendants

[illegible]

CIVIL ACTION NO. 3:18-CV-00731-M

**SPEX ENGINEERING (UK) LTD.'S
ADVISORY TO THE COURT ON SCOTTISH LAW**

Scotland-based Defendant SPEX Engineering (UK) Ltd. (“Engineering UK”) files this Advisory to the Court on Scottish Law (“Advisory”) as follows:

1. The Court has determined that “it will apply the general rule—that liability under an alter ego or veil-piercing theory is determined by the law of the country in which the entity was incorporated”—which, for every named defendant entity except SPEX Group US LLC, is Scotland.¹ In its previous briefings, Engineering UK attempted to provide the Court a concise, accurate portrayal of the current landscape of Scottish law regarding veil piercing within Scotland and the UK.² Engineering UK files this Advisory in order to assist the Court and provide a complete picture of Scottish law regarding veil piercing, including recent developments. Plaintiff is not prejudiced by this Advisory because it has been on notice of

¹ [ECF 146].

² [ECF 86, 87, 88, 107, 108, 126, 127, 128].

Scottish legal issues since at least June 25, 2018 and Federal Rule of Civil Procedure 44.1 does not impose any specific time limit.³

2. Through this Advisory and the Declaration of Garry Borland, QC attached hereto, Engineering UK submits that Scottish law: (1) does not recognize a legal concept similar to an “alter ego” theory as a basis for disregarding the corporate form; (2) only recognizes a limited principle of veil piercing as a basis for disregarding the corporate form under certain circumstances⁴—not present here; (3) does not recognize “reverse” corporate veil piercing as a basis for disregarding the corporate form; (4) would reject any attempt to pierce the corporate veils of SPEX Services Limited (“Services”) or SPEX Offshore Limited (“Offshore”) to fix liability on other named defendants because the other named defendants do not owe pre-existing legal obligations to Plaintiff; and (5) would reject any attempt to pierce the corporate veils of other named defendants in this lawsuit to fix liability on Services or Offshore because Services and Offshore are not shareholders in the other named defendants.⁵

Conclusion

Defendant SPEX Engineering (UK) Ltd. files this Advisory on Scottish law asking the Court to consider the Declaration of Garry Borland, QC attached hereto and determine that Plaintiff’s alter ego or veil-piercing theory against all defendants incorporated in Scotland fails as a matter of Scottish law and should be dismissed with prejudice under Federal Rule of Civil Procedure 12(b)(6).

³ [ECF 86, 87]; *see also Northrop Grumman Ship Sys., Inc. v. Ministry of Def. of Republic of Venezuela*, 575 F.3d 491, 496–97 (5th Cir. 2009).

⁴ Pre-existing legal obligation or liability, current shareholder, or evasion of pre-existing legal obligation or liability by interposing a company under its control.

⁵ *See* Exhibit “1” – Declaration of Garry Borland, QC.

Respectfully submitted,

/s/ Craig D. Dillard

Craig D. Dillard

Texas State Bar No. 24040808

cdillard@foley.com

Terrell Miller

Texas State Bar No. 24046446

tmiller@foley.com

Jason P. Sharp

Texas State Bar No. 24039170

jsharp@foley.com

FOLEY GARDERE

FOLEY & LARDNER LLP

1000 Louisiana, Suite 2000

Houston, Texas 77002

Tel: 713-276-5500

Fax: 713-276-5555

Steven C. Lockhart

Texas State Bar No. 24036981

slockhart@foley.com

Robert T. Slovak

Texas State Bar No. 24013523

rslovak@foley.com

Rachel Kingrey

Texas State Bar No. 24068616

rkoneil@foley.com

FOLEY GARDERE

FOLEY & LARDNER LLP

2021 McKinney Avenue, Suite 1600

Dallas, Texas 75201

Tel: 214-999-4668

Fax: 214-999-3668

**ATTORNEYS FOR DEFENDANT
SPEX ENGINEERING (UK) LTD.**

CERTIFICATE OF SERVICE

The undersigned Counsel hereby certifies that the foregoing has been served via ECF on this the 30th day of January, 2019 to:

Blake L. Beckham
Jose M. Portela
THE BECKHAM GROUP P.C.
3400 Carlisle, Suite 550
Dallas, TX 75204
214-965-9301 (fax)

*Attorneys for Plaintiff,
MCR OIL TOOLS, LLC*

/s/ Craig D. Dillard

Craig D. Dillard